

February 25, 2016

The Honorable Jacob J. Lew
Secretary, Department of the Treasury
1500 Pennsylvania Avenue, NW
Washington, D.C. 20220

The Honorable John F. Kerry
Secretary of State
320 21st St NW
Washington, DC 20451

Re: Charities Denied Financial Services, Reducing Aid for the World's Most Needy

Dear Secretary Lew and Secretary Kerry,

This letter is sent on behalf of 58 nonprofit organizations from around the world to seek your assistance with a growing problem that is making it more challenging than ever for international charities and grantmakers to provide life-saving aid to people in global hot spots where need is greatest. We represent more than \$8.3 billion annually in aid and services to the world's most needy populations.

It is increasingly difficult for these nonprofit organizations (NPOs) to access financial services that are necessary to keep their operations going. Banks may delay, or refuse to make, transfers between organizations. Sometimes, NPOs are turned away as customers or have their accounts closed. For example, in the spring of 2015, one charity was unable to pay for fuel needed to supply power to a hospital in Syria because of the banks' lengthy delays in transmitting funds. More recently, aid to refugees streaming into Europe was impacted by a charity's inability to make international wire transfers. These examples are representative of a long list of de-risking cases.

The banks and the U.S. Treasury Department are blaming each other for the problem and to date have done little to solve it. The difficulty stems in part from aggressive enforcement of the Bank Secrecy Act, including anti-terrorist and anti-money laundering programs. U.S. financial institutions are required to monitor financial transactions and report suspicious activity. Federal bank examiners require them to conduct extensive due diligence on NPOs, which can take substantial time and resources. This has pushed banks to reduce their appetites for risk without offering incentives to maintain relationship with customers perceived to be high-risk.

A recent report from the Center for Global Development (CGD) demonstrates that anti-money laundering and anti-terrorist financing rules have created pressures that make financial institutions more risk-averse. A report from the Global Center for Cooperative Security and Oxfam America finds the recent trend of bank account closures is a result of a number of factors,

including aggressive enforcement as well as bankers' and examiners' negative attitudes towards NPOs with activities in jurisdictions perceived to be high-risk. Without positive incentives to offer services to NPOs, banks' risk-reward calculation will continue to be weighted towards de-risking. Given the central role the U.S. plays in international finance, this impacts NPOs globally.

The Financial Action Task Force (FATF) has called on member states to take a risk-based, proportional approach to counterterrorism financing regulation, including protecting NPO access to the formal financial system. While the U.S. government says that banks should undertake a "careful assessment of the risks and the tools available to manage and mitigate those risks," that policy has not been translated into concrete action that removes current disincentives for banks to provide services to nonprofits. It is clear that U.S. law has not caught up with FATF guidance, and financial institutions are still fearful of harsh penalties, which results in dropping NPO customers. U.S. counterterrorism finance regulations will be judged by FATF on their *effectiveness* during the upcoming mutual evaluation. Regulatory regimes that result in significant numbers of law-abiding customers being unable to access financial services cannot be considered effective.

Although the Treasury Department's response to the problem has just recently shifted from "We cannot tell banks which customers they must serve" to "This does not imply a zero failure approach," these new statements do not recognize the profound impact of de-risking on NPOs. Governmental action is necessary to address what the Global Center/Oxfam report cites as "market failure."

Finding a solution to this problem should be a priority for the Departments of Treasury and State. It is necessary to support U.S. foreign policy goals. Many nonprofits carry out work funded by USAID, the State Department and the UN Treasury should support the governmental objectives of these agencies by fostering an environment in which the NPOs are able to access financial services and continue their operations.

All stakeholders stand to benefit from a solution to this problem. Likewise, all stakeholders stand to lose if the de-risking trend continues and NPOs are unable to use transparent, regulated channels for international transfers, much of it government and/or UN funds.

The undersigned NPOs respectfully request greater cohesion and collaboration in regulatory compliance policy between the U.S. Departments of State and Treasury. This will help provide greater clarity and guidance to both regulators and financial institutions servicing NPO accounts.

In an effort to move towards a solution to this problem, **the undersigned NPOs respectfully call on:**

- 1) a high-ranking official at the Department of Treasury issue a proactive, public statement that NPOs are not by definition high-risk and that under U.S. law, banks are not required to know the customer of their NPO customer; and**
- 2) the Departments of Treasury and State to convene a multi-stakeholder dialogue as part of a broader effort to ensure that registered, law-abiding NPOs are able to access the global financial system.**

We will contact you shortly to discuss this proposal and look forward to positive engagement on it. We can be contacted via Kay Guinane, Director, Charity & Security Network at kguinane@charityandsecurity.org.

Signatories:

Adeso Africa (Kenya)

American Friends Service Committee (US)

Arcus Foundation (US)

Asfari Foundation (UK)

Association de Soutien aux Médias Libres (France)

Australian Council for International Development (Australia) (130 member organizations)

Baitulmaal AHED (US)

Baytna Syria (Turkey)

Bill of Rights Defense Committee and Defending Dissent Committee (US)

Business & Human Rights Resource Centre (UK)

Capoeira4Refugees (UK)

CARE USA (US)

Catholic Relief Services (US)

Charity & Security Network (US)

Church World Service (US)

CIVICUS (South Africa)

Dalia Association (Palestine)

Fund for Global Human Rights (US)

Global Fund for Women (US)

Global Greengrants Fund (US)

Grassroots International (US)

Hope for Syria Foundation (US)

Human Appeal (UK)

InterAction (US) (180 member organizations)

International Catholic Migration Commission (Switzerland)

International Foundation for Electoral Systems (US)

International Medical Education Trust 2000 (UK)

International Network for Aid, Relief and Assistance Inc. (US)

International Rescue Committee (US)

Islamic Relief USA (US)

Kinder USA (US)

Lebanese Association for Scientific Research (Lebanon)

Life for Relief and Development (US)

Mayday Rescue (Dubai)

Mercy Without Limits (US)

Middle East Children's Alliance (US)

Muslim Charities Forum (UK)

Nonviolence International (US)

Oxfam America (US)

Palestinian Businesswomen's Association-Asala (Palestine)

Relief International (US)

Sawa for Development and Aid (Lebanon)

Sawa Foundation (UK)
Sunrise USA (US)
Syria Relief (UK)
Syria Relief and Development (US)
Syrian American Council (US)
Syrian American Medical Society (US)
The Galilee Foundation (UK)
The Nawaya Network (Lebanon)
The Syria Campaign (UK)
United Muslim Relief (US)
Violet Organization (Turkey)
Water for South Sudan (US)
Women Now for Development (France)
Women Peacemakers Program (The Netherlands)
Youth for Development (Lebanon)
Zakat Foundation of America (US)